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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,636	12/29/2000	Ken Landaiche	NC30309	9258
38879	7590	04/29/2005		EXAMINER
DARBY & DARBY P.C. P.O. BOX 5257 NEW YORK, NY 10150-6257			GHEBRETINSAE, TEMESGHEN	
			ART UNIT	PAPER NUMBER
			2637	

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/751,636	LANDAICHE, KEN	
	Examiner	Art Unit	
	Temesghen Ghebretinsae	2637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 November 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5,8,9 and 11 is/are rejected.
- 7) Claim(s) 6-7,10 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

1. It would be of great assistance to the Office if all incoming papers pertaining to a filed application carried the following items:

1. Application number (checked for accuracy, including series code and serial no.).
2. Group art unit number (copied from most recent Office communication).
3. Filing date.
4. Name of the examiner who prepared the most recent Office action.
5. Title of invention.
6. Confirmation number (See MPEP § 503).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5,9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cotton et al. (5,577,075)

Cotton discloses a system for phase aligning first timing signal with the second timing signal comprising: a selection unit (75,82) coupled to a plurality of clocks (timing sources); a detection means (115,84) coupled to the selection unit for detecting a failure in the timing signal and causing the selection unit to switch to another timing source (clock); a unit (95) coupled to the selection unit for comparing the phase of the first timing signal (output from 82) after switching to the phase of the second timing signal (output from 106), wherein the unit introduces gradual phase alterations to the second timing signal. The detection

means comprises: an alarm activity unit coupled to the timing for detecting a failure in any one of the timing (clocks) and a control unit coupled to the alarm unit and the selection unit for determining and instructing the selection unit to switch to another timing (clock) (115,84). The system further comprises an internal timing unit (25a,GND). The unit comprises a phase detection unit coupled to the selection unit (104); a phase adjuster unit coupled to the phase detection unit (106); a low pass filter coupled to the phase detection unit (102) and an oscillator coupled to the low pass filter (100). The system of Cotton also discloses a generator unit (144,146,148) coupled to the unit (95) to generate at least one out signal. (See fig. 4 and col.9, line 40 to col.11, line 57)

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cotton. As discussed above cotton discloses all the subject matters described above. Cotton differs from the claimed invention in that he is silent about the frequency of first timing signal. However, such particular frequency would have been an obvious design choice.

Allowable Subject Matter

5 Claims 6-7,10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6 **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Response to Arguments

7 Applicant's arguments filed 11/8/04 have been fully considered but they are not persuasive. Applicant argues that the present application teaches "gradual phase shift" whereas Cotton discloses, "immediate phase shifting". First of all there is no teaching in Cotton about the immediate phase shifting. At col. 11, lines 38-40 cotton discloses "... the phase of VCOX will be locked to the phase of the input signal and will follow any variations in the input phase" Thus, there is no teaching of an **immediate phase shifting**. Second to have an immediate phase shifting to lock the phase of the VCO and

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the input signal is one step ahead over the present claimed invention. Therefore Cotton does anticipate the claimed subject matter.

8 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temesghen Ghebretinsae whose telephone number is 571-272-3017. The examiner can normally be reached on Monday-Friday from 8 to 6. The examiner can also be reached on alternate

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel, can be reached on 571-272-2688. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Temesghen Ghebretinsae
Primary Examiner
Art Unit 2637

T.G. 4/27/05.

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Temesghen Ghebretinsae
PRIMARY EXAMINER